

UNITED STATES DISTRICT COURT 14 AUG 22 AM 8:36

for the

District of New Mexico

CLERK-LAS CRUCES

United States of America

v.

Case No. 14Mj2823

Zachary Milton Hess
DOB: 3/20/1995

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 05/27/2014 in the county of Dona Ana in the
District of New Mexico, the defendant(s) violated:

Code Section

Offense Description

Title 18, U.S.C. Section 844(e)

Zachary Milton Hess, through the use of the mail, telephone, telegraph, or other instrument of interstate or foreign commerce, or in or affecting interstate or foreign commerce, willfully made a threat and maliciously conveyed false information knowing the same to be false, concerning an attempt to "shoot up" his college campus, New Mexico State University.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.Violet Caron
Complainant's signatureViolet Caron, Special Agent, FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: 8-22-14

Carmen E. Garza
Judge's signature

City and state: Las Cruces, NM

Carmen E. Garza, U.S. Magistrate Judge
Printed name and title

Attachment A

I, Violet Caron, being first duly sworn, hereby depose and state as follows:

INTRODUCTION

I am employed with the Federal Bureau of Investigation (FBI) as a Special Agent and am currently assigned to the Las Cruces Resident Agency. I have been employed by the FBI since February 12, 2012. As an FBI Agent, I am authorized to investigate crimes that occur within the territorial jurisdiction of the United States.

I have personal knowledge and have participated in the investigation set forth below. I am familiar with the facts and circumstances of the investigation through personal participation, from discussions with other agents of the FBI, state and local agents, and from my review of records and reports relating to the investigation. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another law enforcement officer or witness who had either direct or indirect knowledge of that statement and to whom I or others have spoken with or whose reports I have read and reviewed. Such statements are among many statements made by others and are stated in substance and in part unless otherwise indicated.

FACTS

On May 27, 2014, an unknown individual was online on the website Omegle.com. Omegle is a free online chat website that allows users to communicate with strangers without registering. The service randomly pairs users in one-on-one chat sessions where they chat anonymously using the handles "You" and "Stranger."

Accordingly, two unknown individuals began chatting. During the chat, one of the chatters wrote, "You're going to be one of the 4 people I'm going to be telling before I shoot my college campus up in 3 days." The chatter continued on to write, "NMSU."¹ The other individual replied, "Dude, that's not funny." He also stated, "Especially after this Friday". On May 23, 2014, a gunman shot up an area near the University of California, Santa Barbara. Seven people were killed, including the gunman. The chatter then wrote, "Call the cops I don't care it' [sic] going to happen."

The person who received the threat resides in the United Kingdom. Because that individual was highly alarmed by the threat, that individual took a screen shot of the chat, and posted it on NMSU's Facebook page. The tip was passed on to law enforcement, who eventually contacted the FBI. Agents were able to obtain the IP address of the internet connection where the threat came from. The IP address belonged to Comcast and was associated with an address on Austin Drive in Las Cruces, New Mexico.

On May 29, 2014, law enforcement went to the residence associated with the IP address. An adult female answered the door. Law enforcement found out that five individuals lived at that residence including NMSU student, Zachary Hess. Law enforcement asked to speak to people inside the residence and the woman consented to allow FBI into her home. Five people were at the residence—four occupants of the home and a visitor. Law enforcement first asked if anyone had heard of the website Omegle. Hess and the visitor said they had heard of and visited the site, but that they had not been to the site in over a month. Law enforcement then explained why they were there and

¹ NMSU refers to New Mexico State University.

asked if anyone knew anything about the threat. Everyone there denied any knowledge about the threat.

The occupants of the home then agreed to let law enforcement look through their computers. When law enforcement got to Hess' computer, the Google chrome browser history revealed that the Omegle site had been visited at 6:46 p.m. on May 27, 2014.

Agents then asked if they could speak to everyone individually. When they spoke to Hess, he admitted that he was the one who sent the threat via the chat. He also stated that he never had any intention of acting on the threat, but that he believed he was chatting in a completely anonymous environment.


On June 26, 2014, Special Agents Violet Caron and Anthony Armijo—who had both been present for Hess' initial interview—invited Hess to the Las Cruces Resident Agency and recorded an interview with him. Hess was advised of his *Miranda* rights, and agreed to speak to agents. Hess again admitted he was the individual who had sent the threat on Omegle and signed a screen shot of the chat to confirm his typing.

As a result of Hess' crime, NMSU expended the following resources to respond to the threat:

- On May 29, 2014, a mass text message was sent to 18,774 NMSU students, faculty, staff, and private citizens informing them that there had been an anonymous threat to shoot up the school.
- Faculty, staff, and students were advised to depart campus early.
- Approximately 1,000 man hours were lost due to the threat.
- New student registration, which was going on at the Corbett Center, on campus, was also closed.

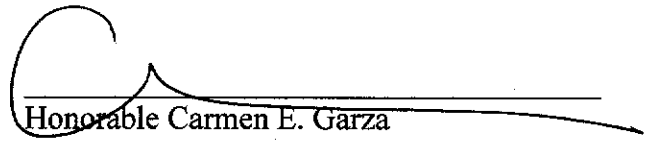
Based upon the facts contained in this affidavit, I believe there is probable cause to support the following criminal charge against ZACHARY HESS: On 05/27/2014, ZACHARY HESS did commit the crime of using the internet to maliciously convey a threat to shoot his college campus, NMSU, in violation of Title 18, U.S.C. § 844(e).

Prosecution of ZACHARY HESS was approved by Assistant United States Attorney Marisa A. Lizarraga.



Violet Caron
Special Agent
Federal Bureau of Investigations

Subscribed and sworn before me this 22nd day of August 2014.


Honorable Carmen E. Garza
United States Magistrate Judge